

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.2639 OF 2022

- | | | |
|----|--------------------------|----------------|
| 1. | Sajid Nasim Ansari | |
| 2. | Nasim Abdulgafar Ansari | ...Petitioners |
| | Versus | |
| 1. | Naznin Sajid Ansari | |
| 2. | The State of Maharashtra | ...Respondents |

Mr. Shriniwas Singh, for the Petitioners.

Mr. Vijaykumar Kamble, for the Respondent No.1.

Mr. J. P. Yagnik, A.P.P for the Respondent No.2– State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 20th DECEMBER 2022

P.C. :

Mentioned out of turn.

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Mr. Kamble waives notice on behalf of the respondent No.1. Learned A.P.P waives notice

on behalf of the respondent No.2–State.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, the petitioners seek quashing of the FIR bearing C.R. No.489 of 2016, registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 323 504, 506, r/w 34 of the Indian Penal Code (IPC). Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.1, and the petitioner No.2, the father-in-law of the respondent No.1 respectively. It appears that during the pendency of the aforesaid petition, the accused No.2 i.e. the mother-in-law of the respondent No.1 expired. The respondent No.1 and the petitioner No.1 got married on 18th December 2015. According to the respondent No.1, as she was ill-treated and harrassed, she lodged the aforesaid FIR, as against the petitioners, alleging the aforesaid

offences. Admittedly, there are no issues from the said marriage. After investigation, charge-sheet was filed in the said case, and the case is presently pending before the learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, being Case No. PW/2758/2017.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same. Accordingly, the petitioner No.1 and the respondent No.1 filed proceeding seeking divorce by mutual consent before the learned Family Court, Bandra, Mumbai. The said consent terms are at Exhibit – 'B', page 31 of the petition. From the perusal of the consent terms, it appears that the petitioner No.1 was to pay a sum of Rs.3 lakhs to the respondent No.1, by way of full and final settlement. We are informed that the entire amount has been paid to the respondent No.1. We are also informed that Khulanama was entered into between the parties and even the D.V proceeding has been withdrawn by the respondent No.1.

6. Learned counsel for the respondent No. 1 has filed an affidavit of the respondent No.1 dated 17th August 2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side. In the said affidavit, the respondent No.1 has stated that the matter has been amicably settled between her and the petitioner No.1 and that they have obtained divorce by Khulanama. She has further stated that she has no objection to the quashing of the proceeding initiated, at her behest. Respondent No. 1 is present in Court. On questioning, she re-iterates what is stated by her in her affidavit. She states that she has no objection for quashing of the proceeding, not only as against the petitioners but also as against her sister-in-law – Kaynath Ashraf Ansari. Learned Counsel for the respondent No. 1 has tendered a self attested photocopy of the aadhar card of the respondent No. 1. The same is taken on record. Learned Counsel for the respondent No.1 has identified the respondent No.1 and the learned APP has verified the aadhar card of the respondent No.1.

7. Considering the nature of dispute, the relations between the parties, the consent terms entered into them, the affidavit of the respondent No.1 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing C.R. No.489 of 2016, registered with the MIDC Police Station, Mumbai, and consequently, the proceeding pending before the learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, being Case No. PW/2758/2017, are quashed and set-aside.

9. At this stage, learned counsel for the petitioners state that the petitioner No.1 had given a postdated cheque of Rs.1 lakh to the respondent No.1, however, today, he has handed over a demand draft for Rs.2 lakhs in favour of the respondent No.1 and as such the

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

respondent No.1 be directed to return the said postdated cheque of Rs.1 lakh, to the petitioner No.1.

10. Respondent No.1 who is present in Court states that the said cheque of Rs.1 lakh given to her by the petitioner No.1, is not traceable and as such she has no objection, if the petitioner No.1 stops payment of the said cheque. Respondent No.1 states that in the event the cheque is found, she will not deposit the said cheque.

11. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

12. All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.